IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2007

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.7986 of 1999

Gnanaiah Samuel .. Petitioner

vs.

1. The State of Tamil Nadu
   rep. by its Secretary to Government
   Adidravidar Welfare Department
   Fort St.George, Chennai-600 009

2. The District Collector,
   Tirunelveli District

3. The Special Tahsildar
   Adi Dravidar Welfare
   Tirunelveli .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the second respondent relating to the impugned notification, dated 25.11.1998, published in Tirunelveli District Gazette Extraordinary No.60 in Part II, pages 3 and 4 on the 25.11.1998, on the file of the second respondent and to quash the impugned 4(1) Notification as published in Tirunelveli District Gazette Extraordinary No.60 in Part II, pages 3 and 4 on the 25.11.1998 by the second respondent and the consequent impugned award made in reference No.7/98-99-A/855/98, dated 1.3.1999 on the file of the second respondent and quash the same.

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For petitioner : Mr.J.R.K.Bhavanantham
For respondents : Mr.D.Srinivasan
Additional Government Pleader

O R D E R

Heard Mr.J.R.K.Bhavanantham, the learned counsel appearing for the petitioner and Mr.D.Srinivasan, the learned Additional Government Pleader appearing for the respondents.

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2. It is stated that the petitioner is the owner of Punja lands comprised in Survey No.11/1, having an extent of 5 acres and 30 cents, and survey No.13, with an extent of 2 acres and 06 cents, at Palayamchettykulam, Tirunelveli District. The petitioner had obtained a licence for quarrying and crushing stones in the land in question.

3. It is stated that the licence had been issued by the District Collector, Tirunelveli, for using the said land for crushing stones, as they were not fit for use as house sites. However, the third respondent had served form-1 notice, prescribed under Rule 3(1) of The Tamil Nadu Land Acquisition for Harijan Welfare Scheme Act, 1978. From the said notice, the petitioner came to know that the lands in question were required for the purpose of providing house sites to Adidravidas living in the surrounding villages. The form-1 notice, dated 30.6.1998, was received by the petitioner only on 6.7.1998, for the hearing fixed on the same date. The petitioner had raised his objections to the acquisition and had also sent a representation requesting for sufficient time to be provided for his appearance.

4. It is also stated that the procedure contemplated under Section 4 of The Tamil Nadu Land Acquisition for Harijan Welfare Scheme Act, 1978, had not been followed. Further, the provision of Rule 3 of the Rules formulated under The Tamil Nadu Land Acquisition for Harijan Welfare Scheme Act, 1978, had not been complied with. Since the required notice had not been given before 15 clear days for the appearance of the person interested in the lands the mandatory provisions of the Act and the Rules have been violated causing prejudice to the petitioner.

5. The petitioner had also stated that a notice had been served on him requesting him to appear for the award enquiry, on 26.2.1999. He had raised his objections and thereafter, the third respondent had passed the impugned award No.7/98-99-A/855/98, dated 1.3.1999, determining the compensation to be given for the lands acquired at Rs.2,46,238/-. The third respondent had served form No.9 notice, prescribed under Section 12(2) of The Land Acquisition Act, 1894, in reference No.Na.Ka.855/98, dated 1.4.1999, even though it is clear that the provisions of the said Act would not apply to The Tamil Nadu Land Acquisition for Harijan Welfare Scheme Act, 1978. In such circumstances, the petitioner has preferred the writ petition before this Court, invoking Article 226 of the Constitution of India.

6. In the counter-affidavit filed on behalf of the respondents, the claims made by the petitioner had been denied. It has been stated that there is nothing shown on behalf of the

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petitioner to substantiate his claims that the licence had been granted for carrying on quarrying and crushing of stone in his acquired lands. The claim of the petitioner that the acquired lands are not fit for house site is incorrect.

7. It has also been stated that though the petitioner had received the notice for the enquiry held, on 6.7.1998, the petitioner's brother Manickam Rajiah had appeared before the Special Tahsildar, Tirunelveli, and had given a statement stating that he has no objection for the lands in question being acquired. Further, the Special Tahsildar, (Adi Dravidar Welfare) in his proceedings A.855/98, dated 16.10.1998, had issued a notice to the petitioner as well as to his brother to appear before him, on 10.11.1998. Even though the petitioner's brother had received the notice, on 6.11.1998, the petitioner had refused to receive the notice.

8. It has been further stated that the land acquisition proceedings are in accordance with law and the award has been passed taking into consideration all the relevant provisions of law.

9. At the stage of the hearing of the writ petition, it has been pointed out by the learned counsel appearing for the respondents that the writ petition has been filed after the passing of the award by the third respondent, on 1.3.1999. Therefore, the writ petition is liable to be dismissed, in view of the order passed by a Division Bench of this Court in RAMALINGAM & OTHERS Vs. THE STATE OF TAMIL NADU & OTHERS (2005-2-L.W.693), wherein, it has been held as follows:

> "These writ appeals have been filed against the impugned common judgment dated 16.12.2002.
>
> 2. We have heard the learned counsel for the parties and have perused the records.
>
> 3. In these appeals, the facts are that the Award under Section 11 of the Land Acquisition Act was given on 7.11.1996 whereas the writ petitions were filed on 28.11.1996, i.e. after the award was passed. It has been repeatedly held by the Supreme Court that no writ petition should be entertained after the award under the Land Acquisition Act has been passed - vide 2003 (4) SCC 485 (Tej Kaur and others v. State of Punjab and others); AIR 2000 SC 671

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(Municipal Council, Ahmed Nagar v. Shah Hyder Beig); 1997(9) SCC 224 (Executive Engineer, Jal Nigam Central Stores Division, Uttar Pradesh v. Suresh Nand Jayal); and 1996(1) SCC 250 (State of Tamil Nadu v. L.Krishnan and others). Following the aforesaid decision, we are of the opinion that the writ petitions itself were not maintainable and they should have been dismissed on this ground itself. Connected WAMP Nos.1595 to 1599 of 2005 are closed."

10. Considering the submissions made on behalf of the parties concerned and in view of the order passed by the Division Bench of this Court in RAMALINGAM & OTHERS Vs. THE STATE OF TAMIL NADU & OTHERS (2005-2-L.W.693), this Court is of the considered view that the petitioner has not shown sufficient cause or reason to grant the relief as prayed for in the writ petition. Therefore, the writ petition stands dismissed. No costs.

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1.The Secretary to Govt of Tamilnadu,
Adidravidar Welfare Department
Fort St.George, Chennai-600 009

2. The District Collector,
Tirunelveli District

3. The Special Tahsildar
Adi Dravidar Welfare, Tirunelveli

- One cc to Govt Pleader SR 74552
- One cc to Mr. JR.K. Bhavanantham, Advocate SR 74811

NG (co)
sg 11/01/08

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